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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 RAMON GOMEZ-CORONADO,
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13 vs. Petitioner,
14 UNITED STATES OF AMERICA,
15 Respondent.

08CR 3626-LAB
CASE NO. 10-CV-2208-LAB
**ORDER DENYING 28 U.S.C.
§ 2255 HABEAS MOTION**

16 Gomez-Coronado is currently serving a 36-month sentence for possessing heroin with
17 the intent to distribute. Now before the Court is his habeas petition brought pursuant to 28
18 U.S.C. § 2255, through which he seeks a sentence reduction. He seeks the reduction on
19 the ground that, due to his alien status, he is ineligible for a one-year sentence reduction
20 through a drug program, or early release into a halfway house. He argues that deprivation
21 of these benefits or privileges due to his alien status violates his Fifth and Fourteenth
22 Amendment rights to due process and equal protection. This is a familiar claim that aliens
23 make in federal habeas petitions, using what appears to be a form pleading, and the Court
24 has consistently rejected it.


25 The petition is untimely. Gomez-Coronado was sentenced on March 30, 2009,
26 judgment was entered on April 3, 2009, and the present habeas motion was filed over one
27 year later, on October 21, 2010. It is **DENIED** on this basis.

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1 Even assuming Gomez-Coronado's petition was filed on time, it would fail on the
2 merits. No due process or equal protection issue arises merely because a defendant's alien
3 status excludes him from certain programs available to citizens, within the prison system or
4 without. See *Rendon-Inzunza v. United States*, 2010 WL 3076271 (S.D. Cal. 2010);
5 *Lizarraga-Lopez v. United States*, 89 F.Supp.2d 1166 (S.D. Cal. 2000). His habeas petition
6 is accordingly **DENIED**. The Court also **DENIES** him a certificate of appealability. See 28
7 U.S.C. § 2253(c)(2).

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9 **IT IS SO ORDERED.**

10 DATED: May 15, 2012

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12 **HONORABLE LARRY ALAN BURNS**
United States District Judge